

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

**Audio Visual Services Group, Inc. d/b/a PSAV
Presentation Services**

Employer,

Case No. 05-RC-232347

and

**International Alliance of Theatrical and Stage
Employees, AFL-CIO, Local 22**

Petitioner.

**PETITIONER'S PRELIMINARY STATEMENT OPPOSING EMPLOYER'S REQUEST
FOR REVIEW OF THE ACTING REGIONAL DIRECTOR'S DECISION AND FOR
EXTRAORDINARY RELIEF**

On the evening of February 12, 2019, Petitioner received notice that the Employer in the above-captioned case filed a Request for Review ("Request") of the Acting Regional Director's Decision and Direction of Election pursuant to 29 C.F.R. § 102.67. In conjunction with its Request, the Employer also requested the following forms of extraordinary relief: (1) a stay of the election; and (2) expedited consideration of the Request. 29 C.F.R. § 102.67(j) (explaining that both expedited consideration and a stay of the election are extraordinary forms of relief). The mail ballot kits for the mail-ballot election¹ directed by the Acting Regional Director are scheduled to be mailed to all prospective voters tomorrow, February 14, 2019 at 3:00 pm.

The Petitioner intends to file a full and substantive Statement in Opposition to the Request on or before the deadline set forth in the Board's regulations (*i.e.*, twenty-one days after the "final disposition"² of this matter, on or about April 7, 2019). 29 C.F.R. § 102.67(f)

¹ The executed ballots must be received by the Region no later than 3:00 pm on March 14, 2019.

² A final disposition of this matter will presumably occur on or about March 14, 2019, when the Regional Director certifies the election results or orders that any challenged ballots be opened and counted.

(explaining that any party opposing a Request for Review may file a statement in opposition within 7 days after the last day on which the request for review must be filed); 29 C.F.R. § 102.67 (explaining that a request for review may be filed at any time following the Regional Director's action until 14 days after a final disposition of the proceeding by the Regional Director). *See also Guide to Board Procedures*, National Labor Relations Board Office of the Executive Secretary (April 2017), at § 4.9(h) (suggesting that a party who intends to file a statement in opposition to a request for review “immediately notify the Office of the Executive Secretary so that [she] can let the Board know an opposition will be coming”).

Given the Employer's requests for two separate forms of immediate, extraordinary relief, the Petitioner hereby submits this Preliminary Statement opposing such relief so that it may be received in advance of the beginning of the election for which a stay has been requested.

According to the Board's clear regulations, a mere request for review—or even a grant of review—of the Acting Regional Director's decision does not warrant a stay of the election. 29 C.F.R. § 102.67(c) (explaining that a request for review “shall not, unless specifically ordered by the Board, operate as a stay of any action by the Regional Director”); 29 C.F.R. § 102.67(h) (explaining that a granted request of review “shall not stay the regional director's action unless otherwise ordered by the Board”). Rather, such extraordinary relief may only be granted “*upon a clear showing that it is necessary* under the particular circumstances of the case.” 29 C.F.R. § 102.67(j)(2).

The Employer has not made *any* showing – much less a “clear showing” – that a stay of the election or an expedited review is necessary, nor that the circumstances of this case in any way warrant the same. Rather, the Employer's sole argument in support of its request for a stay of election consists of its unsupported claim that the Acting Regional Director's decision “has

the potential to significantly disrupt PSAV's normal business operations and frustrate efficient and stable collective bargaining." (Request for Review p. 5, see also p. 4). The Employer provides no other argument or evidence in support of its request for extraordinary relief.

Consequently, the mail-ballot election should take place as directed for the reasons set forth at length in the Acting Regional Director's Decision and Direction of Election. Should the Board decide to conduct an expedited review of the matter or otherwise consider the extraordinary relief requested, the Petitioner respectfully requests that the Board provide it with notification of such review so that we may provide a full and complete response in time to be considered by the Board.

February 13, 2019

Respectfully submitted,

/s/ Kathleen Bichner

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on February 13, 2019, a true and correct copy of the above was e-filed using the Board's electronic filing system and that a copy was sent to the following via electronic mail:

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/s/ Kathleen Bichner